

REFERENCE TITLE: CORP; membership

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2792

Introduced by
Representatives Chase, Smith: Allen J

AN ACT

AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 335, SECTION 8; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 324, SECTION 1; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-881, Arizona Revised Statutes, as amended by
3 Laws 2002, chapter 335, section 8, is amended to read:

4 38-881. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition that
7 the local board finds totally and permanently prevents an employee from
8 performing a reasonable range of duties within the employee's department, was
9 incurred in the performance of the employee's duties and was the result of
10 any of the following:

11 (a) Physical contact with inmates, prisoners, parolees or persons on
12 probation.

13 (b) Responding to a confrontational situation with inmates, prisoners,
14 parolees or persons on probation.

15 (c) A job related motor vehicle accident while on official business
16 for the employee's employer. A job related motor vehicle accident does not
17 include an accident that occurs on the way to or from work. Persons found
18 guilty of violating a personnel rule, a rule established by the employee's
19 employer or a state or federal law in connection with a job related motor
20 vehicle accident do not meet the conditions for accidental disability.

21 2. "Accumulated member contributions" means the sum of all member
22 contributions deducted from a member's salary and paid to the fund, plus
23 member contributions transferred to the fund by another retirement plan
24 covering public employees of this state, plus previously withdrawn
25 accumulated member contributions which are repaid to the fund in accordance
26 with this article, minus any benefits paid to or on behalf of a member.

27 3. "Average monthly salary" means one-thirty-sixth of the aggregate
28 amount of salary paid a member by a participating employer during a period of
29 thirty-six consecutive months of service in which the member received the
30 highest salary within the last one hundred twenty months of service. Average
31 monthly salary means the aggregate amount of compensation paid a member
32 divided by the member's months of service if the member has less than
33 thirty-six months of service. In the computation under this paragraph, a
34 period of nonpaid or partially paid industrial leave shall be considered
35 based on the salary the employee would have received in the employee's job
36 classification if the employee was not on industrial leave.

37 4. "Beneficiary" means an individual who is being paid or who has
38 entitlement to the future payment of a pension on account of a reason other
39 than the individual's membership in the retirement plan.

40 5. "Claimant" means a member, beneficiary or estate that files an
41 application for benefits with the retirement plan.

42 6. "Credited service" means credited service transferred to the
43 retirement plan from another retirement system or plan for public employees
44 of this state, plus those compensated periods of service as a member of the
45 retirement plan for which member contributions are on deposit in the fund.

1 7. "Designated position" means:
2 (a) For a county:
3 (i) A county detention officer.
4 (ii) A nonuniformed employee of a sheriff's department whose primary
5 duties require direct contact with inmates.
6 (b) For the state department of corrections and the department of
7 juvenile corrections, ~~only the following specifically designated positions:~~
8 ~~(i) Food service.~~
9 ~~(ii) Nursing personnel.~~
10 ~~(iii) Corrections physician assistant.~~
11 ~~(iv) Therapist.~~
12 ~~(v) Corrections dental assistant.~~
13 ~~(vi) Hygienist.~~
14 ~~(vii) Corrections medical assistant.~~
15 ~~(viii)~~ (i) A correctional service officer, including A PROGRAM
16 OFFICER, PAROLE OR COMMUNITY SUPERVISION OFFICER, assistant deputy warden,
17 deputy warden, warden and OR superintendent.
18 ~~(ix) State correctional program officer.~~
19 ~~(x) Parole or community supervision officers.~~
20 ~~(xi) Investigators.~~
21 ~~(xii) Teachers.~~
22 ~~(xiii) Institutional maintenance workers.~~
23 ~~(xiv)~~ (ii) A youth corrections officer, INCLUDING A YOUTH PROGRAM
24 OFFICER.
25 ~~(xv) Youth program officer.~~
26 ~~(xvi) Behavioral health treatment unit managers.~~
27 ~~(xvii)~~ (iii) The director and assistant directors of the department
28 of juvenile corrections and the superintendent of the state educational
29 system for committed youth.
30 ~~(xviii)~~ (iv) The director, deputy directors and assistant directors
31 of the state department of corrections.
32 (v) A NONUNIFORMED EMPLOYEE OF THE STATE DEPARTMENT OF CORRECTIONS OR
33 DEPARTMENT OF JUVENILE CORRECTIONS WHOSE PRIMARY DUTIES REQUIRE DIRECT
34 CONTACT WITH INMATES.
35 ~~(xix)~~ (vi) Other positions designated by the local board of the state
36 department of corrections or the local board of the department of juvenile
37 corrections pursuant to section 38-891, subsection E.
38 (c) For a city or town, a city or town detention officer.
39 (d) For an employer of an eligible group as defined in section 38-842,
40 full-time dispatchers.
41 8. "Employee" means a person determined by the local board to be
42 employed by a participating employer in a designated position.
43 9. "Employer" means an agency or department of this state or a
44 political subdivision of this state which has one or more employees in a
45 designated position.

1 10. "Fund" means the corrections officer retirement plan fund.

2 11. "Fund manager" means the fund manager of the public safety
3 personnel retirement system.

4 12. "Local board" means the retirement board of the employer that
5 consists of persons appointed or elected to administer the plan as it applies
6 to the employer's members in the plan.

7 13. "Member" means any employee who meets all of the following
8 qualifications:

9 (a) Who is a full-time paid person employed by a participating
10 employer in a designated position.

11 (b) Who is receiving salary for personal services rendered to a
12 participating employer or would be receiving salary except for an authorized
13 leave of absence.

14 (c) Whose customary employment is at least forty hours each week and
15 for more than six months in a calendar year.

16 14. "Normal retirement date" means the first day of the calendar month
17 immediately following an employee's completion of twenty years of service or,
18 in the case of a dispatcher, twenty-five years of service, the employee's
19 sixty-second birthday and completion of ten years of service or the month in
20 which the sum of the employee's age and years of credited service equals
21 eighty.

22 15. "Participating employer" means an employer which the fund manager
23 has determined to have one or more employees in a designated position or a
24 county, city or town which has entered into a joinder agreement pursuant to
25 section 38-902.

26 16. "Pension" means a series of monthly payments by the retirement
27 plan.

28 17. "Retired member" means an individual who is being paid a pension on
29 account of the individual's membership in the retirement plan.

30 18. "Retirement" means termination of employment after a member has
31 fulfilled all requirements for a pension.

32 19. "Retirement plan" or "plan" means the corrections officer
33 retirement plan established by this article.

34 20. "Salary" means the base salary or base wages, shift differential
35 pay and holiday pay paid a member in a designated position for personal
36 services rendered to a participating employer on a regular monthly,
37 semimonthly or biweekly payroll basis. Salary includes amounts that are
38 subject to deferred compensation or tax shelter agreements. Salary does not
39 include any remuneration or reimbursement other than as prescribed by this
40 paragraph.

41 21. "Service" means employment rendered to a participating employer as
42 an employee in a designated position. Any absence that is authorized by an
43 employer, including any periods during which the employee is on an employer
44 sponsored long-term disability program, is considered as service if the

1 employee returns or is deemed by the employer to have returned to a
2 designated position within the period of the authorized absence.

3 22. "Total and permanent disability" means a physical or mental
4 condition that is not an accidental disability, that the local board finds
5 totally and permanently prevents a member from engaging in any gainful
6 employment and that is the direct and proximate result of the member's
7 performance of the member's duty as an employee of a participating employer.

8 Sec. 2. Section 38-881, Arizona Revised Statutes, as amended by Laws
9 2005, chapter 324, section 1, is amended to read:

10 38-881. Definitions

11 In this article, unless the context otherwise requires:

12 1. "Accidental disability" means a physical or mental condition that
13 the local board finds totally and permanently prevents an employee from
14 performing a reasonable range of duties within the employee's department, was
15 incurred in the performance of the employee's duties and was the result of
16 any of the following:

17 (a) Physical contact with inmates, prisoners, parolees or persons on
18 probation.

19 (b) Responding to a confrontational situation with inmates, prisoners,
20 parolees or persons on probation.

21 (c) A job related motor vehicle accident while on official business for
22 the employee's employer. A job related motor vehicle accident does not
23 include an accident that occurs on the way to or from work. Persons found
24 guilty of violating a personnel rule, a rule established by the employee's
25 employer or a state or federal law in connection with a job related motor
26 vehicle accident do not meet the conditions for accidental disability.

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28 contributions deducted from a member's salary and paid to the fund, plus
29 member contributions transferred to the fund by another retirement plan
30 covering public employees of this state, plus previously withdrawn
31 accumulated member contributions which are repaid to the fund in accordance
32 with this article, minus any benefits paid to or on behalf of a member.

33 3. "Average monthly salary" means one-thirty-sixth of the aggregate
34 amount of salary paid a member by a participating employer during a period of
35 thirty-six consecutive months of service in which the member received the
36 highest salary within the last one hundred twenty months of service. Average
37 monthly salary means the aggregate amount of compensation paid a member
38 divided by the member's months of service if the member has less than
39 thirty-six months of service. In the computation under this paragraph, a
40 period of nonpaid or partially paid industrial leave shall be considered
41 based on the salary the employee would have received in the employee's job
42 classification if the employee was not on industrial leave.

43 4. "Beneficiary" means an individual who is being paid or who has
44 entitlement to the future payment of a pension on account of a reason other
45 than the individual's membership in the retirement plan.

1 5. "Claimant" means a member, beneficiary or estate that files an
2 application for benefits with the retirement plan.

3 6. "Credited service" means credited service transferred to the
4 retirement plan from another retirement system or plan for public employees
5 of this state, plus those compensated periods of service as a member of the
6 retirement plan for which member contributions are on deposit in the fund.

7 7. "Designated position" means:

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10 (ii) A nonuniformed employee of a sheriff's department whose primary
11 duties require direct contact with inmates.

12 (b) For the state department of corrections and the department of
13 juvenile corrections, ~~only the following specifically designated positions:~~

14 ~~(i) Food service.~~

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16 ~~(iii) Corrections physician assistant.~~

17 ~~(iv) Therapist.~~

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22 OFFICER, PAROLE OR COMMUNITY SUPERVISION OFFICER, assistant deputy warden,
23 deputy warden, warden and OR superintendent.

24 ~~(ix) State correctional program officer.~~

25 ~~(x) Parole or community supervision officers.~~

26 ~~(xi) Investigators.~~

27 ~~(xii) Teachers.~~

28 ~~(xiii) Institutional maintenance workers.~~

29 ~~(xiv)~~ (ii) A youth corrections officer, INCLUDING A YOUTH PROGRAM
30 OFFICER.

31 ~~(xv) Youth program officer.~~

32 ~~(xvi) Behavioral health treatment unit managers.~~

33 ~~(xvii)~~ (iii) The director and assistant directors of the department
34 of juvenile corrections and the superintendent of the state educational
35 system for committed youth.

36 ~~(xviii)~~ (iv) The director, deputy directors and assistant directors
37 of the state department of corrections.

38 (v) A NONUNIFORMED EMPLOYEE OF THE STATE DEPARTMENT OF CORRECTIONS OR
39 DEPARTMENT OF JUVENILE CORRECTIONS WHOSE PRIMARY DUTIES REQUIRE DIRECT
40 CONTACT WITH INMATES.

41 ~~(xix)~~ (vi) Other positions designated by the local board of the state
42 department of corrections or the local board of the department of juvenile
43 corrections pursuant to section 38-891, subsection E.

44 (c) For a city or town, a city or town detention officer.

1 (d) For an employer of an eligible group as defined in section 38-842,
2 full-time dispatchers.

3 8. "Employee" means a person determined by the local board to be
4 employed by a participating employer in a designated position.

5 9. "Employer" means an agency or department of this state or a
6 political subdivision of this state which has one or more employees in a
7 designated position.

8 10. "Fund" means the corrections officer retirement plan fund.

9 11. "Fund manager" means the fund manager of the public safety
10 personnel retirement system.

11 12. "Local board" means the retirement board of the employer that
12 consists of persons appointed or elected to administer the plan as it applies
13 to the employer's members in the plan.

14 13. "Member" means any employee who meets all of the following
15 qualifications:

16 (a) Who is a full-time paid person employed by a participating employer
17 in a designated position.

18 (b) Who is receiving salary for personal services rendered to a
19 participating employer or would be receiving salary except for an authorized
20 leave of absence.

21 (c) Whose customary employment is at least forty hours each week and
22 for more than six months in a calendar year.

23 14. "Normal retirement date" means the first day of the calendar month
24 immediately following an employee's completion of twenty years of service or,
25 in the case of a dispatcher, twenty-five years of service, the employee's
26 sixty-second birthday and completion of ten years of service or the month in
27 which the sum of the employee's age and years of credited service equals
28 eighty.

29 15. "Participating employer" means an employer which the fund manager
30 has determined to have one or more employees in a designated position or a
31 county, city or town which has entered into a joinder agreement pursuant to
32 section 38-902.

33 16. "Pension" means a series of monthly payments by the retirement
34 plan.

35 17. "Retired member" means an individual who is being paid a pension on
36 account of the individual's membership in the retirement plan.

37 18. "Retirement" means termination of employment after a member has
38 fulfilled all requirements for a pension.

39 19. "Retirement plan" or "plan" means the corrections officer
40 retirement plan established by this article.

41 20. "Salary" means the base salary or base wages, overtime pay, shift
42 differential pay and holiday pay paid a member in a designated position for
43 personal services rendered to a participating employer on a regular monthly,
44 semimonthly or biweekly payroll basis, except that for the purposes of this
45 paragraph the amount of overtime included shall not include payments to the

1 member for the sale of compensatory time. Salary includes amounts that are
2 subject to deferred compensation or tax shelter agreements. Salary does not
3 include any remuneration or reimbursement other than as prescribed by this
4 paragraph.

5 21. "Service" means employment rendered to a participating employer as
6 an employee in a designated position. Any absence that is authorized by an
7 employer, including any periods during which the employee is on an employer
8 sponsored long-term disability program, is considered as service if the
9 employee returns or is deemed by the employer to have returned to a
10 designated position within the period of the authorized absence.

11 22. "Total and permanent disability" means a physical or mental
12 condition that is not an accidental disability, that the local board finds
13 totally and permanently prevents a member from engaging in any gainful
14 employment and that is the direct and proximate result of the member's
15 performance of the member's duty as an employee of a participating employer.

16 Sec. 3. Election to remain in existing retirement system;
17 transfer of credited service from another retirement
18 system

19 A. Notwithstanding any other statute, an employee of the department of
20 corrections or the department of juvenile corrections who becomes eligible
21 for membership in the corrections officer retirement plan pursuant to this
22 act may elect to remain in the employee's existing state retirement system.

23 B. An employee of the department of corrections or department of
24 juvenile corrections who becomes eligible for membership in the corrections
25 officer retirement plan pursuant to this act and who does not make the
26 election provided by subsection A begins membership in the corrections
27 officer retirement plan on the effective date of this act. The employee may
28 transfer credited service from a different retirement system to the
29 corrections officer retirement plan pursuant to title 38, chapter 5, article
30 7, Arizona Revised Statutes.

31 Sec. 4. Conditional enactment

32 Section 38-881, Arizona Revised Statutes, as amended by Laws 2005,
33 chapter 324, section 1 and section 2 of this act, becomes effective on the
34 date prescribed in Laws 2005, chapter 324, section 2 but only on the
35 occurrence of the condition prescribed by Laws 2005, chapter 324, section 2.